



U.S. Small Business  
Administration

# Payroll Protection Program

*Relevant Guidance on Forgiveness*

*Updated 5/15*

# PPP ‘Safe Harbor’ 5/15 Summary

- Recently published (called FAQ #46) - provides a ‘safe harbor’ when getting a PPP loan.
- Any borrower receiving a loan under 2 million dollars *will be deemed to have requested the loan in good faith.*
- It goes on to say, for any PPP loan where the borrower did NOT act in good faith *“If the borrower repays the loan ... SBA will not pursue administrative enforcement or referrals to other agencies ...”*
- Reactions from the Press:
  - CNBC – *“business owners who borrowed less than \$2 million from the Paycheck Protection Program can breathe a little easier”*
  - FORBES – *“businesses with a PPP loan under \$2 million now automatically fit the SBA forgiveness criteria with respect to financial hardship”*

# We Hope You Smile!



# These Slides (and other resources)

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Fax: 713-773-6550

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Hours of Operation:  
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**SBA** U.S. Small Business  
Administration



NEED HELP GROWING YOUR SMALL BUSINESS?

## Business Resources and News

### PRESS RELEASES

SBA Adjusts Size Standards to Expand Lending & Contracting Opportunities  
*August 1, 2019*  
SBA Houston Honors Top Small Businesses  
*March 22, 2019*  
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*February 11, 2019*

### CORONAVIRUS (COVID-19): SMALL BUSINESS GUIDANCE & LOAN RESOURCES

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### STATE AND LOCAL RESOURCES

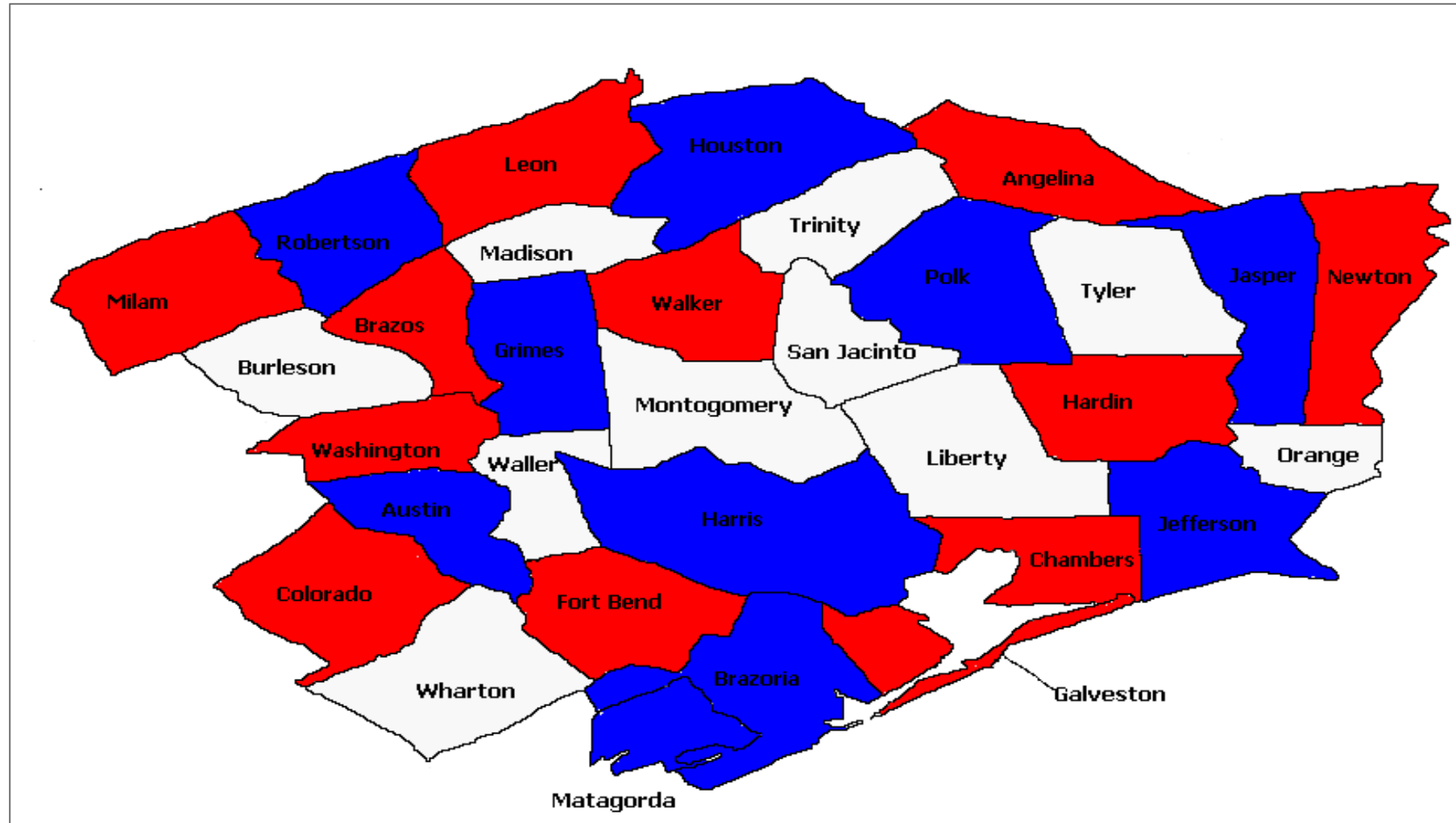
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### SBA PROGRAMS

[SBA 7a Loan Program](#)

# **SBA Introduction**

# Houston District 32 Counties – SE Texas



# 4 C's of SBA

- **Counseling**
- **Contracting**
- **Crisis**
- **Capital**



Free business counseling



SBA guaranteed business loans



Home & business disaster loans



Federal government contracting





# Counseling



# Resource Partners of the SBA

## **Texas Gulf Coast Small Business Development Center (SBDC)**

713-752-8444

[www.sbdc.uh.edu](http://www.sbdc.uh.edu)

## **WBEA Women's Business Center (WBC)**

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## **Houston SCORE**

713-487-6565

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# SBA Resources

## For EIDL Loan Applicants

- 1-800-659-2955
- (TTY: 1-800-877-8339)
- e-mail [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov)

## Houston District Office - SBA

- 713-773-6500
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- Twitter: @SBA\_Houston

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# Economic Development Team

- Coordinates our 1,200+ significant engagements each year
- Partners with a wide range of organizations
- Media relations and social media
- Speak on a wide range of topic at events from a handful to 1,000+

## Common Speaking Topics

### General Topics:

- How the U.S. SBA Can Help Your Small Business
- Sources of free business counseling for your small business
- How to Survive a Disaster: SBA disaster assistance and recommended disaster preparation for small businesses
- How to Export / International Trade
- Veteran Small Business (Start or Grow) Workshops
- Encore Entrepreneurs (Post-Retirement Startups)

### Capital Access Topics:

- SBA Guaranteed Loans for Small Business
- Alternatives to Bank Lending for Small Businesses including Crowdfunding, Equity Investment, and more
- For Construction Firms: Increase Sales via Improved Bonding
- SBA Financing Panel Presentations
- Federal Innovation Grants (SBIR/STTR Programs)

### Federal Contracting Topics:

- Growing your firm by winning Federal contracts
- The SBA 8(a) Business Development program
- HUBZone certification workshop
- Women-Owned Business certification
- How to Conduct Market Research Using FPDS

# Contracting



Federal government contracting

# Federal Contracting / Business Opportunity Team

- Help Americans grow their businesses
  - Special training and certification
  - Access to federal contracts
  - Support with state and local contracts

Business Type	Amount	Number	Average Transaction
Small Business	\$ 824,132,874	1,035	\$ 796,264
Small Disadvantaged	\$ 211,481,926	558	\$ 379,000
8(A)	\$ 23,910,367	44	\$ 543,417
Veteran	\$ 86,890,441	113	\$ 768,942
Service Disabled Veteran	\$ 70,126,613	73	\$ 960,639
Women Owned	\$ 162,527,792	684	\$ 237,614
HUBZone	\$ 17,927,981	15	\$ 1,195,199

# Capital



SBA guaranteed business loans

# Lender Support Team

## FY19 Capital Assistance

	Dollars	Units	Average
504	\$76,910,000	66	\$1,165,303
7A	\$846,663,000	1191	\$710,884
Surety Bonds	\$125,672,305	222	\$566,091
Micro Loans	\$424,479	33	\$12,863
Grand Total	\$ 1,049,669,784	1512	\$734,744



# Crisis



Home & business disaster loans

# Disaster Lending

- Provide direct loans from the government to assist homeowners and any size business or non-profit
- Provide technical assistance to help businesses recover

Hurricane Imelda		
Home	601	\$31,385,600
Business/EIDL	14	\$617,500
TOTAL	615	\$32,003,100

Hurricane Harvey		
Home	39,653	\$2,957,258,600
Business/EIDL	3,906	\$450,093,700
TOTAL	43,559	\$3,407,352,300

- SBA Express Lenders – Disaster Bridge Loans up to \$25K

# COVID-19 Lending

	Dollars	Units
PPP 1 (finished)	\$350Bn	1.66M
PPP 2 (in progress)	~\$200Bn	2.65M
EIDL (on hold)	unk	5M applications
EIDL Advances (as of 4/24)	\$4.8M	1.2M

# PPP Forgiveness

**References and Some Basic Information**

# Payroll Protection Program Forgiveness

All references are from the following documents:

1. **Official Guidance**  
<https://www.sba.gov/document/policy-guidance--ppp-interim-final-rule>
2. Paycheck Protection Program Fact Sheet for Borrowers  
<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>
3. Paycheck Protection Program FAQs  
<https://www.sba.gov/document/support--faq-lenders-borrowers>
4. The CARES Act  
<https://www.congress.gov/bill/116th-congress/house-bill/748/>
5. Disbursement Guidance  
<https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Disbursements.pdf>
6. Supplemental Official Guidance of 4/20  
<https://www.federalregister.gov/documents/2020/04/20/2020-08257/business-loan-program-temporary-changes-paycheck-protection-program-additional-eligibility-criteria>

# Full Time Equivalents (FTEs)

*(from FAQs)*

- ... for purposes of loan forgiveness, the CARES Act uses the standard of “fulltime equivalent employees” to determine the extent to which the loan forgiveness amount will be reduced in the event of workforce reductions.

# What is 'Payroll Cost'

## III 2 ii f

Payroll costs consist of

- compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips);
- payment for vacation, parental, family, medical, or sick leave;
- allowance for separation or dismissal;
- payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement;
- payment of state and local taxes assessed on compensation of employees;
- and for an independent contractor or sole proprietor,
  - wage, commissions, income, or net earnings from self-employment or similar compensation.

# How to Calculate PPP Loan Amounts?

## III 2 ii e

### *How do I calculate the maximum amount I can borrow?*

The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.

Step 1: Aggregate payroll costs (defined in detail below in f.) from the last twelve months for employees whose principal place of residence is the United States.

Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.

Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).

Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.

Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because it does not have to be repaid).



# When Does The 8-Week Period Start

From April 20 supplemental guidance III 1 a

- The lender must make a one-time, full disbursement of the PPP loan within ten calendar days of loan approval
- For the purposes of this rule, a loan is considered approved when the loan is assigned a loan number by SBA.
- ... lenders are not responsible for delays in disbursement attributable to a borrower's failure to timely provide required loan documentation, including a signed promissory note.
- Loans for which funds have not been disbursed because a borrower has not submitted required loan documentation within 20 calendar days of loan approval shall be cancelled by the lender

# Details on Forgiveness

# How Much Can Be Forgiven?

## Section III 2 ii o (also in III, III 2 ii t v)

### *Can my PPP loan be forgiven in whole or in part?*

- Yes. The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest.
- The actual amount of loan forgiveness will depend, in part, on
  - the total amount of payroll costs,
  - payments of interest on mortgage obligations incurred before February 15, 2020
  - rent payments on leases dated before February 15, 2020
  - utility payments under service agreements dated before February 15, 2020,
  - over the eight-week period following the date of the loan.
- However, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.

# Again... How Much Forgiven?

From the Fact Sheet entitled *“PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET: BORROWERS”*

**How much of my loan will be forgiven?** You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan... not more than 25% of the forgiven amount may be for non-payroll costs.

You will also owe money if you do not maintain your staff and payroll.

- Number of Staff: Your loan forgiveness will be reduced if you decrease... headcount.
- Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
- Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

# Re-hiring Employees

## FAQ #40

- Will a borrower's PPP loan forgiveness amount ... be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?
- (We)... intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation... to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower.
- Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation

# Requesting Forgiveness

**(III 2 ii t, iv)** Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period following this loan will be provided to the lender.

**(From FAQ)** ... The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days

**(4/20 Supplemental Guidance III 1 g )** ... submit Form 941 and state quarterly wage unemployment insurance tax reporting forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and health insurance contributions).

# The Lender's Role with Forgiveness

## III 3 c, *What do Lenders Need to Know and Do*

### *Can lenders rely on borrower documentation for loan forgiveness?*

- Yes. The lender does not need to conduct any verification if the borrower submits documentation supporting its request for loan forgiveness and attests that it has accurately verified the payments for eligible costs.
- The Administrator will hold harmless any lender that relies on such borrower documents and attestation from a borrower.
- ... lender reliance on a borrower's required documents and attestation is necessary and appropriate in light of section 1106(h) of the Act, which prohibits the Administrator from taking an enforcement action or imposing penalties if the lender has received a borrower attestation.

# *... Stay Tuned...*

Section III 2 ii o

*SBA will issue additional guidance on loan forgiveness.*



# A Simple Example

# Simple Example

Average FTE	10	Obtained from hours worked or full-time salaried employees
12 Month Payroll	\$120,000	Obtained from your payroll records

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Average FTE	10	Obtained from hours worked or full-time salaried employees
12 Month Payroll	\$120,000	Obtained from your payroll records
Average Monthly Payroll	\$10,000	(12 Month Payroll / 12 months)

# Simple Example

12 Month Payroll	\$120,000	Obtained from your payroll records
Average FTE	10	Obtained from hours worked or full-time salaried employees
Average Monthly Payroll	\$10,000	Monthly payroll / 12 months

Loan Amount	\$25,000	Average Monthly Payroll * 2.5
- Amount for payroll (75%)	\$18,750	
- Amount for Rent, Mortgage Interest, and Utilities	\$6,250	

# From Texas Citizens Bank

*Guidance To Their Clients*

# PPP Do's & Don'ts

## Texas Citizens Bank



**DO use the funds for payroll and authorized expenses only.**

Your PPP loan is to be used for payroll costs, group healthcare expenses, and other authorized costs, such as



**DON'T use the funds for unauthorized expenses.**

Make sure you use your loan only to pay for authorized expenses. You should expect to be audited by the bank or government officials. By avoiding misuse of the funds, your loan may be fully forgivable.

# PPP Do's & Don'ts

## Texas Citizens Bank



### DO be organized.

Keep records of how you use your loan funds. Opening and using a separate deposit account for the PPP loan funds can make this easy and streamline any auditing process.



### DON'T mix loan funds with personal assets.

Again, to keep things easy to track, avoid depositing your PPP loan funds into a personal account and avoid the temptation of using the funds to pay for personal expenses.

# PPP Do's & Don'ts

## Texas Citizens Bank



### DO keep the rules in mind.

Remember that your PPP funds need to be used immediately for authorized costs incurred during the eight weeks immediately following the loan's origination. Also, at least 75% of the forgiven amounts must be used for payroll expenses during that time.



### DON'T attempt to cheat.

Unscrupulous borrowers may try to take advantage of the law's gray areas, but please don't. Again, the bank or representative from the government is likely to perform an audit. The last thing you want is to be caught in an act of fraudulent use of funds.



# ... and speaking of fraud...

- **Things Get Real For Reality TV Star**
- Georgia, federal prosecutors charged a well-known figure on reality TV with bank fraud.
- In addition to his television work, the man is also the sole owner of a Georgia company with “107 employees...”
- The loan amount he received was slightly over \$2 million.
- He “allegedly used more than \$1.5 million of the PPP loan proceeds to purchase \$85,000 in jewelry, including a Rolex Presidential watch, a diamond bracelet, a 5.73 carat diamond ring for himself, and to pay \$40,000 for child support.”
- Stating what seems obvious to most PPP loan applicants, the DOJ points out that “such payments are not an authorized use of PPP funds under the CARES Act.”
- May 11, when “agents executed a search...and seized approximately \$80,000 in cash, including \$9,400 that [he] had in his pockets... and further discovered a 2019 Rolls-Royce Wraith, which still had a temporary dealer tag on it.”
- **Texas Toast: Business Owner Obtains \$10 Million To Pay 250 Employees But Evidently Has No Employees**
- The man “allegedly sought \$10 million in PPP loan proceeds by fraudulently claiming to have 250 employees with an average monthly payroll of \$4 million.”
- The Texas Workforce Commission has no records of employee wages paid in 2020 by the accused or his business.
- They even searched his trash. In garbage outside the man’s residence, they found “handwritten notes that appear to reflect an investment strategy for the \$3 million, which is the amount of money that [he] allegedly sought from the second lender.”

From FORBES magazine online

# Frequently Asked Questions

*PPP Forgiveness*

# Hiring / Re-Hiring

1. How soon do I have to rehire my employees?
2. Do all employees need to return at the same time, or can some stay on unemployment for a while?
3. What if we have someone doesn't come back until after the 8-week period has started? How we do we include them?
4. We haven't yet had a staff reduction. Do we have to maintain staff thru June 30<sup>th</sup>? Or, just the eight-week period?

# Using the PPP Funds (1 of 2)

1. Can I pay any of my employees more than they normally make, or for more hours than they normally work?
2. Can I pay all of the payroll to my employees as a lump sum at one time?
3. Can I include part time employees in the forgiven wages?
4. Let's say I receive \$850K for the PPP and after 8 weeks I only use \$600K. Will the \$250K balance become a loan (at 1% for 2 years), or must I return it to the bank?

## Using the PPP Funds (2 of 2)

1. If an employee chooses to stay on unemployment, or not come back at all, do I just send their portion back to the bank, or can I disburse their portion to the rest of the employees?
2. We processed payroll the day that we received the loan. Paychecks included the week before disbursement of the loan. Are those payments from the week before eligible for forgiveness even though we were paying staff wages accrued during the prior week?

# ‘Assorted’

1. How will an FTE be calculated? *Can we take our total payroll hours each pay period (in our case we pay biweekly so it's 2 weeks/80 hours) for the 2 baseline option periods we can choose from and divide by 80 hours to get the FTE?*
2. What documents do I submit to properly document forgiveness?
3. I own two companies. One (that received PPP funds) rents the property from the other under contract. Since these entities have common ownership, will the rent payment be allowed?
4. I am a sole proprietor. I am not part of the normal payroll; instead, I calculate my distribution at the end of the month after all expenses. How do I document these distributions so they will be forgiven?

# **‘Miscellaneous’**

1. Is there a ‘safe harbor’ for businesses that use PPP funds for their businesses?
2. Will this webinar content change?
3. When will there be more relief funds (PPP or EIDL or other)?

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